IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

THURSDAY, THE 6TH DECEMBER 2007 / 15TH AGRAHAYANA 1929

Bail Appl..No. 7383 of 2007()

CRIME NO. 271/07 OF ANCHAL POLICE STATION
AGAINST THE JUDGEMENT/ORDER IN BA.3776/2007 Dated 21/06/2007

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PETITIONERS
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1. SAJEER, S/O. PEERU MUHAMMED,
   ROADARIKATHU VEEDU, PARANGODU, NEDUMANGADU TALUK,
   NEDUMANGADU VILLAGE, THIRUVANANTHAPURAM DISTRICT.

2. SABU, S/O. SURENDRAN,
   SABU BHAVAN, POTTANCHIRA, (THADATHANKARAN VEEDU),
   KOTTAKKAKAM, THIRUVANANTHAPURAM DISTRICT.

BY ADV. SRI.R.SURAJ KUMAR
SMT.GEETHA P.MENON

RESPONDENTS:
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1. STATE OF KERALA REP. BY PUBLIC PROSECUTOR
   HIGH COURT OF KERALA, ERNAKULAM.

2. THE SUB INSPECTOR OF POLICE
   ANCHAL POLICE STATION, KOLLAM DIST.

BY PUBLIC PROSECUTOR SRI. JAI GEORGE

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 06/12/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R. BASANT, J.

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B.A.No. 7383 of 2007

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Dated this the 6th day of December, 2007

O R D E R

Application for anticipatory bail. The petitioners are accused 2 and 3 in a crime registered for offences punishable under Sections 420 and 468 I.P.C. The allegations relate to a vehicle transaction. The defacto complainant had entered into an agreement for sale of a vehicle with the first accused. The first accused, in turn, was introduced to the defacto complainant by accused 2 and 3 allegedly. The vehicle was delivered to the first accused, who has committed breach of the obligations under the agreement.

2. The crux of the allegations is that the accused persons have committed the offence of cheating and forgery. What is the nature of the offence alleged? Crime has been registered on the basis of a private complaint filed by the defacto complainant and referred to the police under Section 156(3) Cr.P.C. The averments in the complaint reveal only the breach of a civil

liability. The first accused had given an incorrect name and address. This in short is the grievance raised.

3. The learned counsel for the petitioners submits that significantly there is no allegation in the complaint that the first accused is a non-existent person. Any alleged inaccuracy in the description of the address of the first accused cannot justify raising of allegations of culpability against the petitioners. Even going by the complaint, the first accused is an existing person. The petitioners are willing to co-operate with the Investigators. Subject to any conditions that may be imposed, they may be granted anticipatory bail, prays the counsel.

4. The learned Prosecutor opposes the application. But the learned Prosecutor is unable to point out anything in the case diary presently available which can indicate that the first accused is a non-existent person. Breach of a civil liability by the first accused or the fact that he is not described accurately in the agreement for transfer cannot justify raising of allegations of culpability against the petitioners prima facie. I am satisfied, in the facts and circumstances,

that the petitioners are entitled for and can be granted anticipatory bail, subject to appropriate conditions.

5. In the result:

(1) This application is allowed.

(2) The following directions are issued under Section 438 Cr.P.C.

(a) The petitioners shall surrender before the learned Magistrate on 13.12.2007 at 11 a.m. The learned Magistrate shall release the petitioners on regular bail on condition that they execute bonds for Rs.50,000/- (Rupees fifty thousand only) each with two solvent sureties each for the like sum to the satisfaction of the learned Magistrate.

(b) The petitioners shall make themselves available for interrogation before the Investigating Officer between 10 a.m. and 3 p.m. on 14.12.07 and 15.12.2007 and thereafter on all Mondays and Fridays between 10 a.m. and 12 noon for a period of one month and subsequently as and when directed by the Investigating Officer in writing to do so.

(c) If the petitioners do not appear before the learned Magistrate as directed in clause (1) above, these directions shall lapse on 13.12.07 and the police shall be at liberty thereafter to arrest the petitioners and deal with them in accordance with law.

(d) If the petitioners were arrested prior to their surrender on 13.12.2007 as directed in clause (1) above, they shall be released on bail on their executing bonds for Rs.50,000/- each without any surety undertaking to appear before the learned Magistrate on 13.12.2007.

(R. BASANT)
Judge

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